

## REMARKS

The applicant has noted the comments made by the Examiner in paragraphs 1 – 4 of the present Official Action. It does not appear that any response is needed to the Examiner's comments in paragraphs 1 – 4 of the present Official Action.

## ARGUMENTS

### Discussion of the 35 U.S.C. 103 Rejections

The Examiner has rejected claims 1 through 4 inclusive, 6 through 13 inclusive, and 15 through 17 inclusive as being obvious based on Brown et al., United States Patent 6,260,414 (hereinafter the Brown, et al., '414 patent), or Rait United States Patent 4,358,955 (hereinafter the Rait '955 patent), or Gilmour United States Patent 3,696,675 (hereinafter the Gilmour '675 patent) each when combined with United States Patent 4,362,645 to Hof, et al., (hereinafter the Hof, et al., '645 patent).

The present invention deals with determining the level of a liquid in a sealed container. It has been determined in the present invention that when the level of liquid may be affected by foaming that a single discrete temperature change is needed. That is, a liquid that foams presents not merely a two phase mixture but a three-phase mixture.

As demonstrated earlier in the declaration under 37 C. F. R. 132 of John J. Staunton dated 14 July 2004 a container with liquid, foam, and a gaseous phase will present a false liquid level due to the foam behaving as a liquid. A conforming copy of the declaration under 37 C. F. R. 132 of John J. Staunton dated 14 July 2004 is attached hereto and incorporated by reference.

The applicant has found in the present invention that a foamable three-phase system may be measured more accurately by employing a color changing material that changes colors at a single discrete temperature to determine the liquid level.

Therefore, when considering a system to measure the liquid level in an enclosed container one must first determine the liquid to be measured. Second one must determine the best way to measure the level of the liquid in an enclosed container.

The Rait '955 patent and the Gilmour '675 patent do not deal with a foamable liquid such as beer. In fact, neither the Rait '955 patent nor the Gilmour '675 patent ever mention foaming as a problem. The Hof, et al., '645 patent deals with devices for determining the temperature of a human being, e.g. disposable thermometers. Therefore, it is clear that the Rait '955 patent or Gilmour '675 patent may not be combined with Hof, et al., '645 patent as the references do not recognize the problem that the applicant has solved and there is no motivation to combine the references in any event.

The Brown, et al., '414 patent does deal with beer but never recognizes the foamable nature of the beer as presenting any problem in measuring the level of liquid within a container. The Brown, et al., '414 patent like the Rait '955 patent and Gilmour '675 patent does not suggest a discrete temperature change or provide the chemistry to determine how to obtain a discrete temperature color change to determine the level of a liquid in a foamable system. The Hof, et al., '645 patent does not provide any reason to suggest measuring temperatures in a foamable liquid system. In fact, the Hof, et al., '645 patent teaches temperatures inappropriate for the purposes of the present invention.

#### Other Matters

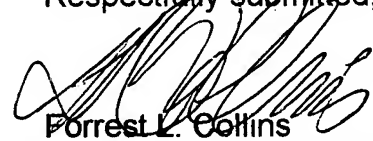
The applicant wishes to make the Examiner aware of the United States Patent 6,761,066 to Rait listed on the attached PTOL 1449.

#### Summary

Claims 1 through 4 inclusive, 6 through 12 inclusive, and 15 through 17 inclusive are pending and reconsideration, and removal, of the rejections made in the present Official Action is requested. Should questions concerning this application arise the Examiner is urged to telephone the undersigned to advance prosecution of this application. The applicant believes the application is in condition for allowance and such is earnestly solicited.

Response/Amendment to Official Action of 27 December 06      SN: 799,459 Filed: 12 March 2004  
Inventor: Anthony J. Hadala Confirmation: 7698      Examiner: Frank, Rodney T.      TC A/U: 2856  
Title: A Temperature-Sensing Device for Determining the Level of a Fluid      Docket: 1286

Respectfully submitted,



Forrest L. Collins

Registration No. 27,186

Post Office Box 41040  
Brecksville, Ohio 44141-0040  
Telephone: 440-526-0610  
Facsimile: 440-526-1819  
Email: forpatents@adelphia.net